

FEE, ROSSE & LANZ, P.C.*Attorneys at Law*MICHAEL C. FEE (mfee@feelaw.com)

November 12, 2004

VIA FACSIMILE AND FIRST CLASS MAIL

Craig Newfield, Esq.
Vice President and General Counsel
MROI Software, Inc.
700 Crosby Drive
Bedford, MA 01730

Re: *M² Consulting, Inc. v. MRO Software, Inc.*, United States District Court,
District of Massachusetts, Case No. 03-12589-GAO (the "Litigation")

Dear Mr. Newfield:

We are counsel to M² Consulting, Inc. ("M²"). Receipt is acknowledged of your letter dated November 8, 2004, enclosing a copy of your November 4 correspondence to Mr. Bevington and Attorney Sears.

As I am sure you are aware, the Complaint in the Litigation alleges that M²'s execution of the Maximo Hosting Affiliate Agreement dated November 4, 2002 (the "2002 Hosting Agreement") with MRO Software, Inc. ("MROI") was in reliance upon a variety of material MROI misrepresentations. Proof of M²'s fraud claims would render the 2002 Hosting Agreement voidable under Massachusetts law. *See, e.g., Shaw's Supermarkets, Inc. v. Delgiacco*, 410 Mass. 840, 842 (1991). As a result, M² does not acknowledge the effect or sufficiency of MROI's purported termination notice dated October 21, 2003. Moreover, M² denies that Section 9 of 2002 Hosting Agreement governs or restricts in any way M²'s ability to consult with, or host, customers that have purchased software licenses directly from MROI.

We have investigated your allegation that M²'s license #813851 covers only Maximo version 4, as well as your subsequent inference that Mr. Bevington's response to the Maximo Evaluation Software Expiration Notice was untruthful. I respectfully draw your attention to a series of e-mail correspondence between MROI's Scott Peluso and M²'s Jeff Foley (dated between October 29 and November 12, 2002), all of which have been previously produced to Mr. Gesmer in response to discovery requests in the Litigation, and are enclosed herewith for your reference. The correspondence illustrates, quite clearly, that MROI's Manager of Internet Support Services altered the active serial

Craig Newfield, Esq.
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number of M²'s Maximo 5.x license in order to limit unauthorized support utilization by M²'s hosting customers. Thus, your assertion that M² is in possession of unlicensed software is simply inaccurate. ?

As noted, M² denies that the termination provision of the 2002 Hosting Agreement are either applicable or enforceable at this juncture. Assuming *arguendo*, however, that such provisions do govern M²'s CMMS Implementation Contract with the Georgia Building Authority ("GBA"), you have thoroughly overstated the scope of any such parameters. First, pursuant to Section 9.e, MROI agreed upon termination to extend M²'s rights for 24 months or, assuming the effectiveness of the termination notice, until October 2005. Since M² still provides services under existing agreements with hosted customers, it could not reasonably be expected to purge or destroy existing software. More importantly, however, nothing in either the 2002 Hosting Agreement, or the March 2000 Internet Hosting Agreement between the parties, could be construed to circumscribe M²'s ability to provide hosting and consulting services to customers that have purchased licenses directly from MROI. In fact, the terms of the 2002 Hosting Agreement, or the March 2000 Internet Hosting Agreement between the parties, specifically acknowledge M²'s right to host customers who purchase software products from MROI, without having to pay any fees to MROI for such services. See, e.g. 2002 Hosting Agreement, Exhibit A, ¶ 4. *No*

Thus, it is M²'s position that whether or not the termination provisions of 2002 Hosting Agreement are applicable, M² may provide the services to GBA called for under the CMMS Implementation Contract. Notwithstanding the foregoing, M² shares MROI's desire to avoid undue disruption to the GBA transaction, and as a result will accede to conditions 1, 2, 3 and 5 set forth in your letter. For reasons previously stated, however, M² will not confirm that it is "not in possession of Maximo Version 5" as the software is licensed to M² under license # 813851. Similarly, M² will not confirm that it "has not promoted Maximo . . . to any other prospects since the date of MROI's [purported] termination notice." Mr. Fawley's letter to Mr. Newbury dated August 26, 2004 would clearly contradict such representation. Finally, M² will not confirm compliance with the terms of an agreement that it believes was fraudulently induced and is therefore voidable. Your invitation to compromise a key component of M²'s claims in the Litigation is, therefore, declined.

On related matters, it has come to our attention that you have intentionally interfered with M²'s prospective business relationship with Grubb & Ellis Management Services, Inc. ("G&E"). As you likely know, M² has performed consulting and Maximo implementation work for G&E at several locations over the past four (4) years. M² recently entered into an agreement with G&E to assess two hosting operations managed by G&E that utilize Maximo and other software products. M² assessed the operations, interviewed employees, documented processes, and made recommendations in a report delivered to G&E in October 2004. As a direct result of this engagement, G&E requested a proposal whereby M² would undertake certain hosting responsibilities for G&E, thus enabling it to take advantage of M²'s managed services support and consulting expertise.

*Does
lic. to
cust.
MROI?
Exhibit?*

yes

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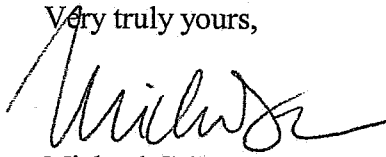
We are informed that in early November you spoke to Michael Groppi, G&E's Vice-President and National Director of Engineering and Facility Resources. During that conversation you conveyed false and disparaging information regarding M², including but not limited to the following: (i) M² has no right to possess Maximo 5.x; (ii) M² has no right to perform hosting services involving Maximo software products; (iii) M² is prohibited from consulting or contracting with new customers using Maximo software products; and (iv) M²'s claims in the litigation are meritless. With the exception of your final statement, which might generously be construed as an expression of opinion, your representations to Mr. Groppi are false and disparaging, and were made with the specific intent to destroy M²'s prospective business relations with G&E. rel

MROI's actions in connection with both the GBA and G&E relationships give rise to colorable claims for intentional interference with advantageous business relations, intentional interference with prospective business relations and trade disparagement. *King v. Driscoll*, 418 Mass. 576 587 (1994); *United Truck Leasing Corp. v. Geltman*, 406 811 (1990); *Picker Int'l, Inc. v. Leavitt*, 865 F. Supp. 951, 964 (D. Mass. 1994); and *Bose Corp v. Consumers Union of U.S., Inc.*, 508 F. Supp. 1249, 1259 (D. Mass. 1981), rev'd on other grounds, 692 F. 2d 189 (1st Cir. 1982). Both GBA and G&E own, or will own, their Maximo licenses and have the unlimited ability to chose M² to provide hosting and consulting services in connection therewith. Your apparent insistence to the contrary constitutes unfair competition, especially in light of the fact that MROI personnel have informed G&E that it should choose MROI to implement hosting services, instead of M². rel

Please construe this as notice of M²'s intention to immediately seek leave to amend the Complaint in the Litigation to assert these claims. In order to resolve the GBA and G&E disputes, however, M² is willing to execute a document confirming acceptance of conditions 1, 2, 3 and 5 contained in your November 4 correspondence regarding the GBA agreement. With respect to G&E, M² would accept a letter from MROI to G&E clarifying your prior representations, and agreeing to hold G&E harmless in connection with the performance of any hosting or consulting agreements with M² involving Maximo software products. rel

If you wish to discuss any aspect of this matter please feel free to call me. If we are unable to come to some agreement on these points prior to November 19, 2004, we shall move to amend to assert the previously discussed claims, and/or seek injunctive relief. Thank you for your prompt attention to these matters.

Very truly yours,


Michael C. Fee

MCF/spl

cc: Mr. Rick Bevington
Mark S. Resnick, Esq.
Lee Gesmer, Esq.

Fee:cn001.doc

Jeff Foley

From: Jeff Foley [jeff.foley@m2consulting.com]
Sent: Thursday, October 31, 2002 11:50 AM
To: Scott.Peluso@mro.com
Subject: RE: MRO Software Support Online Users Registered with M2Consulting Product Serial Number

Can u change our serial number add a digit? Then no one can know our license number we use for support calls

Jeff Foley
Vice President & CTO
M2 Consulting, Inc.

Ph: (770) 253-1183
Fax: (770) 253-6228
Email: Jeff.foley@m2consulting.com
Web: <http://www.m2mantis.com>

The contents of this email transmission are confidential and proprietary and are intended for the sole use of the intended recipient. If this transmission has been directed to the wrong office, destroy the contents immediately and notify the sender.

-----Original Message-----

From: Scott.Peluso@mro.com [mailto:Scott.Peluso@mro.com]
Sent: Thursday, October 31, 2002 11:54 AM
To: Jeff Foley
Subject: RE: MRO Software Support Online Users Registered with M2Consulting Product Serial Number

Unfortunately, no. If the serial number has an active ACSP agreement, anyone can log in. We are looking in to restricting access numbers based upon type of license..

Regards,

Scott Peluso
Manager, Internet Support Services
MRO Software
781-280-2383
<http://support.mro.com>
<http://www.mro.com>

Interested in MAXIMO 5? Visit the MRO Software Support Online website at <http://support.mro.com> and check out the new MAXIMO 5 Resource Center!

Jeff Foley

From: Jeff Foley [jeff.foley@m2consulting.com]
Sent: Thursday, October 31, 2002 12:06 PM
To: Scott.Peluso@mro.com
Subject: RE: MRO Software Support Online Users Registered with M2Consulting Product Serial Number

Lets do that, can you switch my account so I don't have to re-register, do we have to use the other license nu,ber (813851) when we call support?

Jeff Foley
Vice President & CTO
M2 Consulting, Inc.

Ph: (770) 253-1183
Fax: (770) 253-6228
Email: Jeff.foley@m2consulting.com
Web: <http://www.m2mantis.com>

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-----Original Message-----

From: Scott.Peluso@mro.com [mailto:Scott.Peluso@mro.com]
Sent: Thursday, October 31, 2002 12:06 PM
To: Jeff Foley
Subject: RE: MRO Software Support Online Users Registered with M2Consulting Product Serial Number

What I could do is change your active serial number to your other license (813851). Assuming that this number is not know to your clients, any attempts to register with 812184 would be denied. I can't modify the existing license as the system specifically looks for your 6 digit number.

Regards,

Scott Peluso
Manager, Internet Support Services
MRO Software
781-280-2383
<http://support.mro.com>
<http://www.mro.com>

Interested in MAXIMO 5? Visit the MRO Software Support Online website at <http://support.mro.com> and check out the new MAXIMO 5 Resource Center!

Jeff Foley

From: Jeff Foley [jeff.foley@m2consulting.com]
Sent: Thursday, October 31, 2002 12:11 PM
To: Scott.Peluso@mro.com
Subject: RE: MRO Software Support Online Users Registered with M2Consulting Product Serial Number

For your renewal group, are hosted license, is an all inclusive license and that other one which we are using now to hide support efforts from our hosted customers is not, so ensure that the history of these numbers is maintained so if you drop dead someone doesn't assume we have the wrong licensing.

Jeff Foley
Vice President & CTO
M2 Consulting, Inc.

Ph: (770) 253-1183
Fax: (770) 253-6228
Email: Jeff.foley@m2consulting.com
Web: <http://www.m2mantis.com>

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-----Original Message-----

From: Scott.Peluso@mro.com [mailto:Scott.Peluso@mro.com]
Sent: Thursday, October 31, 2002 12:15 PM
To: Jeff Foley
Subject: RE: MRO Software Support Online Users Registered with M2Consulting Product Serial Number

Ok, I will edit your profile and reflect the other number. I will also have our renewal groups make the appropriate changes..

Regards,

Scott Peluso
Manager, Internet Support Services
MRO Software
781-280-2383
<http://support.mro.com>
<http://www.mro.com>

Interested in MAXIMO 5? Visit the MRO Software Support Online website at <http://support.mro.com> and check out the new MAXIMO 5 Resource Center!

FROM : M2 CONSULTING

PHONE NO. : 770 253 6228

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(6)

Jeff Foley

From: Jeff Foley [jeff.foley@m2consulting.com]
Sent: Tuesday, November 12, 2002 10:52 AM
To: Scott.Peluso@mro.com
Subject: FW: Upgrade request v. 5.1

See below, we have never ordered our upgrade for our hosted system, but because of what we did the other day im being shutdown on my request

Jeff Foley
Vice President & CTO
M2 Consulting, Inc.

Ph: (770) 253-1183
Fax: (770) 253-6228
Email: Jeff.foley@m2consulting.com
Web: <http://www.m2mantis.com>

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-----Original Message-----

From: Erin.Riley@mro.com [mailto:Erin.Riley@mro.com]
Sent: Tuesday, November 12, 2002 10:50 AM
To: jeff.foley@m2consulting.com
Subject: Upgrade request v. 5.1

Hello Jeff,

License number 813851 is currently a 5.1 system,
and therefore does not require the upgrade.

Thank you,
Erin Riley
Order Administrator
MRO Software Inc.
P: 781-280-6575
F: 781-280-2210
E: erin.riley@mro.com

Re: FW: Upgrade request v. 5.1

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Jeff Foley

From: Scott.Peluso@mro.com
Sent: Tuesday, November 12, 2002 12:00 PM
To: Jeff Foley
Subject: Re: FW: Upgrade request v. 5.1

Jeff,

I have spoken with Erin and she will rectify..

Regards,

Scott Peluso
Manager, Internet Support Services
MRO Software
781-280-2383
<http://support.mro.com>
<http://www.mro.com>

Interested in MAXIMO 5? Visit the MRO Software Support Online website at
<http://support.mro.com> and check out the new MAXIMO 5 Resource Center!

11/4/2004

FROM : M2 CONSULTING

PHONE NO. : 770 253 6228

Nov. 04 2004 05:09PM P6

Upgrade request v. 5.1

5

Jeff Foley

From: Erin.Riley@mro.com

Sent: Tuesday, November 12, 2002 10:50 AM

To: Jeff Foley

Subject: Upgrade request v. 5.1

Hello Jeff,

License number 813851 is currently a 5.1 system,
and therefore does not require the upgrade.

Thank you,

Erin Riley

Order Administrator

MRO Software Inc.

P: 781-280-6575

F: 781-280-2210

E: erin.riley@mro.com

11/4/2004